

The prior named inventors on the PCT and the US National Stage '371 and their assignees have been submitted appropriate papers to request a correction of inventorship in the US SN 09/736,023. We understand that the parties have executed the papers, but the University is not responding to requests to forward the papers to Mr. Metcalfe. A hearing has been requested in the UK Patent Office over the situation.

Double Patenting

In regard to double patenting, applicant submits that once the inventorship issue is clarified and corrected, the double patenting issues can be adequately addressed, utilizing a terminal disclaimer if, when and where necessary.

Claim Rejections – §112 Paragraphs 4-8 of Office Action

Applicant respectfully traverses the rejection of claim 37 as failing to comply with the enablement requirement. The Examiner asserts that the specification and figures do not disclose the composition located upon the recited surface within the building, drain or sewer. Applicant respectfully traverses, referring to the specification, original page 1 lines 19-26 together with page 4 lines 14-16 and original claim 4. Such passages provide enabling disclosure for locating an insect controlling composition upon a surface and for that surface being within a building, drain or sewer. The composition is to be located in the paths of targeted insects. It is disclosed that cockroaches are known to habituate a building, drain or sewer.

The Examiner further rejects claim 37 as failing to satisfy the written description requirement, asserting that the specification contains “no disclosure of the composition including a building, drain or sewer or any specific structure that the desired invention is to be used with except for a trap.” Applicant respectfully traverses the rejection, again referring to the specification as above, (original page 1 lines 19-24 together with page 4 lines 14-16 and original claim 4.) Therein it is disclosed that the cockroach is ubiquitous in urban situations in the tropics and subtropics and is common in heated buildings in Europe and North America where food is prepared. Large cockroach populations are also found in sewers and drains. Page 4 recites that the particles are to be applied to a surface in an area in which pests are present. Original claim 4 analogously recited a method wherein the particles are applied to a surface in an area in which pests are present.

Applicant cancels claim 42.

Applicant amends the claims as suggested to eliminate the rejections of claims 33 and 35-37 under §112, second paragraph. Applicant adds a period to the end of claim 33. Applicant amends claims 35-37 to recite a “system” for controlling insects rather than a composition.

Applicant respectfully submits that all rejections under §112 are now overcome.

Rejections Under §102- and §103 Over Latwesen

Applicant respectfully traverses that Latwesen comprises prior art in regard to the instant application.

The instant application is a continuation of co-pending SN 09/736,023, a §371 US National Stage of PCT/GP99/02090, that asserts in turn priority to prior UK application SN 9814507.1. The US National Stage was filed 2/28/01. The underlying PCT application naming the US was filed in GB on 7/1/99, in English. The underlying Great Britain application was filed 7/3/98.

Applicant asserts priority back to the 7/3/98 Great Britain filing. As mentioned above, continuity of inventorship will be substantiated. Given continuity of inventorship back through the US National Stage in the PCT filing to the GB application 9814507.1, applicant asserts that Latwesen does not comprise prior art under 35 USC §102 (b).

Notwithstanding the above, applicant submits that Latwesen can be distinguished. However, such appears unnecessary in light of the fact that Latwesen does not comprise prior art.


Reconsideration and further examination is respectfully requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Sue Z. Shaper, Applicants' Attorney at 713 550 5710 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

10/2/6
Date


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